

Sixth Appellate District

San Jose, California

MONDAY, JULY 21, 2008

H031807 PEOPLE v. OLMOS

The trial court is ordered to modify the May 15, 2007 minute order to reflect the imposition of a probation supervision fee "not to exceed \$64 per month." The judgment is modified to strike the attorney's fees award. As modified, the judgment is affirmed. (not published)

(Mihara, J.; We concur: Rushing, P.J., Premo, J.)

Filed July 21, 2008

TUESDAY, JULY 22, 2008

The following case is submitted this date:

H032216 MOORE v. CHAVA

H030925 MARRIAGE OF CAROL AND STEPHEN DARCY

By the Court*:

Appellant's petition for rehearing is denied.

Filed: July 22, 2008

*Before Bamattre-Manoukian, Acting P.J., Mihara, J. and McAdams, J.

H032133 In re EVELYN M.; SANTA CRUZ COUNTY HRA v. ANTOINETTE M., et al.

By the Court*:

Appellant's petition for rehearing is denied.

Filed: July 22, 2008

*Before Rushing, P.J., McAdams, J. and Duffy, J.

H032922 ISABEL O. v. SUPERIOR COURT OF SANTA CLARA COUNTY

The petition for extraordinary writ is denied. (not published)

(McAdams, J.; We concur: Elia, Acting P.J., Mihara, J.)

Filed July 22, 2008

H029302 PEOPLE v. CRUZ

Our prior opinion in this matter, filed August 25, 2006, is hereby vacated and superseded by this opinion. The judgment is affirmed. (not published)

(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed July 22, 2008

Sixth Appellate District

San Jose, California

Tuesday, July 22, 2008 (continued)

H030415 PEOPLE v. LEAL

(Filed modification of opinion with a change in the judgment.) Page 26, last paragraph of the opinion, delete entire paragraph and substitute the following: The judgment is modified to stay execution of the sentence imposed on counts two and four pursuant to section 654. As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and forward a certified copy to the Department of Corrections and Rehabilitation. The petition for rehearing is denied. (not published)
(Elia, J., Rushing, P.J.)
Filed July 22, 2008

WEDNESDAY, JULY 23, 2008

H030026 PEOPLE v. LACERDA

The judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed July 23, 2008

H027820 PEOPLE v. SOTO

The judgment is reversed. The matter is remanded for resentencing. The trial court is directed to follow the current version of section 1170, subdivision (b) (Stats. 2007, ch. 3, § 2), which provides that sentencing terms shall rest within the sound discretion of the trial court. The new sentence shall not include a parole revocation restitution fine. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed July 23, 2008

THURSDAY, JULY 24, 2008

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Mihara, Acting P.J.; McAdams, J.; Duffy, J.; and W. Magsaysay, Deputy Clerk.

H031329 MARRIAGE OF MARASH AND WHITMAN

Cause called and argued by Gregory Ellis appearing for Appellant and by Bernard N. Wolf appearing for Respondent. Cause ordered submitted.

Sixth Appellate District

San Jose, California

Thursday, July 24, 2008 (continued)

H031776 CARLA M. v. SUSAN E., et al.

Cause called and argued by Jed Somit appearing for Appellants and by Michael Ng appearing for Respondent. Cause ordered submitted. Court recesses.

H032919 DALE I. V. SUPERIOR COURT OF SANTA CRUZ

The petition is denied. (not published)
(Mihara, J.; We concur: Elia, Acting P.J., McAdams, J.)
Filed July 24, 2008

H032433 In re L.D.; MONTEREY CO. DEPT. OF SOCIAL & EMPLOYMENT SERVICES v. PATRICIO S.

The October 26, 2007 order reinstating the order terminating parental rights is reversed and the matter is remanded to the juvenile court for the limited purpose of complying with the notice requirements of the ICWA. The Department is directed to complete an ICWA-030 notice form with all the information we have described above that appellant has already made available to the Department about his possible Indian ancestry. The Department shall then send copies of the notice to appellant and all relevant Apache tribes and file proof of receipt of such notices, along with a copy of the notice and any responses. When all the tribes have responded, or the requisite time has elapsed, the Department shall request a hearing be set for the juvenile court's review of the notices and responses and for the possible reinstatement of the order terminating parental rights, and shall file proof of service on appellant and his appointed counsel of that request. Upon the setting of the hearing, the juvenile court shall order appellant transported from prison for the hearing and may appoint appellant new counsel. If either appellant or his appointed counsel, or both, are present at the scheduled hearing, the juvenile court shall review the notices and responses and make a finding as to whether the ICWA notice requirements as set out by this court were complied with. If any tribe determines that L.D. is an Indian child, the court is to conduct further proceedings in accordance with the ICWA. Otherwise, if the court determines that the ICWA does not apply, the court is to reinstate the order terminating parental rights. (not published)

(Bamattre-Manoukian, J.; We concur: Rushing, P.J., Premo, J.)
Filed July 24, 2008

Sixth Appellate District

San Jose, California

Thursday, July 24, 2008 (continued)

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California.
Present: Mihara, Acting P.J.; McAdams, J.; Duffy, J.; and Jossie Michel, Deputy Clerk.

H031963 PEOPLE v. GITZEN

Cause called and argued by Tutti Hacking appearing for Appellant and by Deputy Attorney General Bruce Ortega appearing for Respondent. Cause ordered submitted.

Mihara, J. leaves the bench and Bamattre-Manoukian, J. takes the bench.

H030848 In re Marriage of TRIVERS & QUIRK

Cause called and argued by Charles A. Dell'Ario appearing for Appellant and by Bernard N. Wolf appearing for Respondent. Cause ordered submitted.

H030971 AMARILLAS, et al v. CAMPOLONG, et al.

Cause called and argued by Charles Nunley appearing for Appellants and by Thomas N. Griffin appearing for Respondents and by William Lucas Marder appearing for Respondents and by Kathryn Klaus appearing for Respondents. Cause ordered submitted. The Court stands in adjournment.

FRIDAY, JULY 25, 2008

H032384 PEOPLE v. PARRISH

The judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Bamattre-Manoukian, J.)
Filed July 25, 2008

H031714 LOS ALTOS GOLF AND COUNTRY CLUB, et al. v. COUNTY OF SANTA CLARA, et al.

Filed order publishing opinion.
(Elia, J., Rushing, P.J., Duffy, J.)